

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

October 21, 2011

Lyle W. Cayce  
Clerk

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No. 09-11128  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

BRYAN MUNSON EWING,

Defendant-Appellant

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:09-CR-2-1

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Before BENAVIDES, DENNIS, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

The attorney appointed to represent Bryan Munson Ewing has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *United States v. Flores*, 632 F.3d 229 (5th Cir. 2011). Ewing has filed a response. The record is insufficiently developed to permit consideration of Ewing's claim that his guilty plea was made under coercion and duress. See *United States v. Corbett*, 742 F.2d 173, 176-78 (5th Cir. 1984). He may raise such a claim in a 28 U.S.C. § 2255 motion. See *id.* at 178 n.11.

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 09-11128

Likewise, the record is insufficiently developed to allow consideration at this time of Ewing's claim of ineffective assistance of counsel; such a claim generally "cannot be resolved on direct appeal when the claim has not been raised before the district court since no opportunity existed to develop the record on the merits of the allegations." *United States v. Cantwell*, 470 F.3d 1087, 1091 (5th Cir. 2006) (internal quotation marks and citation omitted).

We have reviewed counsel's briefs and the relevant portions of the record reflected therein, as well as Ewing's response. We concur with counsel's assessment that the appeal presents no nonfrivolous issue for appellate review. Accordingly, the motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, and the APPEAL IS DISMISSED. *See* 5TH CIR. R. 42.2.